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Supreme Court Case Repeals Fourth and 10th Amendments, Republican Government

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An opinion recently handed down by the U.S. Supreme Court was a direct assault on the Fourth and 10th Amendments, making these key provisions of the Bill of Rights all but obsolete and buttressing the high court's long-held position of ultimate lawmaker for all 50 states and all those who reside in them.

The latest case being used by the five of the nine black-robed oligarchs to consolidate all power in their hands is *Mitchell v. Wisconsin*. Here's the summary of the case, as published in the official opinion:

> Gerald Mitchell was arrested for operating a vehicle while intoxicated after a preliminary breath test registered a blood alcohol concentration (BAC) that was triple Wisconsin's legal limit for driving.
>
> As is standard practice, the arresting officer drove Mitchell to a police station for a more reliable breath test using evidence-grade equipment. By the time Mitchell reached the station, he was too lethargic for a breath test, so the officer drove him to a nearby hospital for a blood test.
>
> Mitchell was unconscious by the time he arrived at the hospital, but his blood was drawn anyway under a state law that presumes that a person incapable of withdrawing implied consent to BAC testing has not done so.
>
> The blood analysis showed Mitchell's BAC to be above the legal limit, and he was charged with violating two drunk-driving laws.
>
> Mitchell moved to suppress the results of the blood test on the ground that it violated his Fourth Amendment right against "unreasonable searches" because it was conducted without a warrant.
>
> The trial court denied the motion, and Mitchell was convicted. On certification from the intermediate appellate court, the Wisconsin Supreme Court affirmed the lawfulness of Mitchell's blood test.

Of all the many constitutionally questionable behaviors on the part of law enforcement and judges, the U.S. Supreme Court's majority opinion focused on the narrow issue of whether the drawing of Mitchell's blood while he was unconscious violated his right "to be secure in [his] persons, houses, papers, and effects, against unreasonable searches and seizures" as set out in the Fourth Amendment to the U.S. Constitution.

Writing for four of the five justices who joined in the majority (Justice Thomas wrote his own concurring opinion), Justice Sam Alito admitted that the Fourth Amendment protects a person from an unwarranted seizure, but in some cases, Alito wrote, "there are well-defined exceptions to this rule, including the 'exigent circumstances' exception, which allows warrantless searches 'to prevent the imminent destruction of evidence.'"

In other words, the Fourth Amendment expressly prohibits what the police did to Gerald Mitchell, but sometimes the Constitution just doesn't matter.

This sidestep of the Bill of Rights — the so-called "exigent circumstances" exception — is allowed, Alito declared, when there is a "compelling need" to suspend the person's rights.

A majority of these justices found that in Mitchell's case there was a "compelling need" to ignore constitutional protections against warrantless searches and seizures. I would argue, however, that there is an even more "compelling need" to force the federal beast back inside its constitutional cage!

The decision in the Mitchell case will, of course, be afforded the power of law by all 50 states and the will of the people in any of those states will be sacrificed on the altar of obedience to the potentates on the Potomac. It shouldn't be that way. The Founders didn't intend such power to be put in the hands of the only branch of the federal government completely unaccountable to the people.

In a letter to Spencer Roane written in 1819, Thomas Jefferson called out the courts, observing, "we find the judiciary on every occasion, still driving us into consolidation."

Jefferson continued his take on judicial tyranny:

> In denying the right they usurp of exclusively explaining the constitution, I go further than you do, if I understand rightly your quotation from the *Federalist*, of an opinion that "the judiciary is the last resort in relation to the other departments of the government, but not in relation to the rights of the parties to the compact under which the judiciary is derived." If this opinion be sound, then indeed is our constitution a complete felo de se. For intending to establish three departments, co-ordinate and independent, that they might check and balance one another, it has given, according to this opinion, to one of them alone, the right to prescribe rules for the government of the others, and to that one too, which is unelected by, and independent of the nation.

Sound familiar?

The *felo de se* Jefferson speaks of is Latin for "felon of himself," in other words, suicide. Under English common law, suicide was a felony.

So, Jefferson tells Roane that if the other two branches of the general government allow the third, the judiciary, to enthrone itself as the ultimate lawgiver, then they've killed the Constitution and the protections it was proposed to provide to the rights of the people.

In his one-paragraph dissenting opinion, Justice Neil Gorsuch called out his colleagues' shoe-horning of the *Mitchell* decision into an "exigent circumstances" question. Gorsuch wrote that "the application of the exigent circumstances doctrine in this area poses complex and difficult questions that neither the parties nor the courts below discussed. Rather than proceeding solely by self-direction, I would have dismissed this case as improvidently granted and waited for a case presenting the exigent circumstances question."

In other words, in its decision, the majority disregarded the issue that was brought before them and chose to focus on a question that wasn't argued.

Furthermore, in this opinion, as in so many others, the court claimed for itself power to make law for Wisconsin, regardless of the laws enacted by the representatives of the people of Wisconsin.

That's called "consolidation," and it was the fear of so many of the Founding Generation who foresaw such a future under the Constitution proposed in 1787.

Finally, referring back to Thomas Jefferson's letter, he quotes Roane's letter to him wherein the latter reiterates that the federal judiciary is not the "last resort" for states, "the parties to the compact under which the judiciary is derived."

Notwithstanding the opinions of Jefferson, Roane, and reason herself, the Supreme Court's opinion in *Mitchell v. Wisconsin* is in fact a felony: it kills the Fourth and 10th Amendments and leaves over 320 million Americans at the mercy of five unelected judges, hardly the hallmark of a republic.